

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

THE ART INSTITUTE OF PHILADELPHIA  
LLC, *et al.*,<sup>1</sup>

Debtors.

GEORGE L. MILLER, Chapter 7 Trustee,

Plaintiff,

v.

TODD S. NELSON, JOHN R. McKERNAN,  
SAMUEL C. COWLEY, EDWARD WEST,  
MARK A. McEACHEN, FRANK JALUFKA,  
J. DEVITT KRAMER, MARK NOVAD, JOHN  
DANIELSON, AND MICK BEEKHUIZEN,

Defendants.

Chapter 7

Case No. 18-11535 (LSS)

(Jointly Administered)

JURY TRIAL DEMANDED

Adversary Proceeding

No. 20-50627 (LSS)

**DEFENDANTS MARK McEACHEN, FRANK JALUFKA, AND  
JOHN DANIELSON’S MOTION TO DISMISS THE COMPLAINT**

Defendants Mark McEachen, Frank Jalufka, and John Danielson (collectively, “Later Defendants”) hereby move to dismiss (the “Motion to Dismiss”) the Complaint [Adv. Dkt. No. 1] (the “Complaint”) filed by plaintiff George L. Miller, as trustee for The Art Institute of Philadelphia, et al. (“Trustee”), pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Rule 7012(b) of the Federal Rules of Bankruptcy Procedure. In support of the Motion to Dismiss, Later Defendants incorporate by reference the accompanying opening brief (the “Opening Brief”), filed contemporaneously herewith.

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<sup>1</sup> Due to the large number of debtors in the above-captioned jointly-administered chapter 7 cases (the “Chapter 7 Cases”), a complete list of such debtors (the “Debtors”) and the last four digits of their federal tax identification numbers is not provided herein. Such information can be found at footnote 1 of the Complaint (as defined below).

Pursuant to Rule 7012-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, Later Defendants do not consent to the entry of final judgment by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

WHEREFORE, Later Defendants respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A, dismissing the Complaint and granting such other and further relief as the Court deems just and proper.

*[Signature Page Follows]*

Dated September 14, 2020

/s/ Sean M. Beach

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